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4 In Propria Persona

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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION  
10

11 CARL A. WESCOTT,

12 Plaintiff,

13 vs.

14 FREDERICK C. FIECHTER, IV;  
DAVID M. ZEFF, ESQ.;  
15 ROBERT N. WEAVER, ESQ. + DOES 1  
through 25,

16 Defendants.  
17  
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Case No. CV22-4288-VC

**DECLARATION OF DAVID M. ZEFF,  
ESQ., IN SUPPORT OF HIS NOTICE OF  
SPECIAL MOTION AND SPECIAL  
MOTION TO STRIKE (ANTI-SLAPP)  
PLAINTIFF'S COMPLAINT PURSUANT  
TO CAL. CODE OF CIVIL PROCEDURE  
§ 425.16**

Date: February 23, 2023  
Time: 10:00 a.m.  
Courtroom 4 – 17th Floor  
Judge Vince Chhabria

19 **DECLARATION OF DAVID M. ZEFF, ESQ.**

20 I, DAVID M. ZEFF, ESQ., declare as follows:

21 1. I am a party in the above-entitled action.

22 2. I have personal knowledge of the facts set forth herein, and if called as a witness to  
23 testify thereto, I could competently and truthfully do so.

24 3. I previously represented Defendant FREDERICK C. FIECHTER, IV (“Mr.  
25 Fiechter”), a creditor of Plaintiff CARL A. WESCOTT (“Wescott”). Said representation  
26 commenced as a joint representation of Mr. Fiechter with Guy Kornblum & Associates in  
27 connection with Mr. Fiechter’s sale of a home in Nevada to Wescott and a Promissory Note and  
28 Deed of Trust given by Wescott to Mr. Fiechter. Early on it was determined that the Nevada

1 action should be pursued by a Nevada law firm and both my and Mr. Kornblum's office had no  
 2 role in that case until a judgment was obtained against Wescott in Nevada by the Nevada Law  
 3 Firm. The original San Francisco action on the Promissory Note and Deed of Trust, Fiechter v.  
 4 Wescott, SF Action No. CGC-10-496091, was commenced by the Kornblum Office and my  
 5 office jointly. Early on Wescott commenced filing baseless and fraudulent bankruptcy  
 6 proceedings to halt the Nevada and San Francisco cases against him. It was then determined that  
 7 the San Francisco complaint needed to be amended to include claims for fraud, based upon the  
 8 facts about Wescott's false representations in the transactions as disclosed in his multiple  
 9 bankruptcy proceedings. Thus, a Third Amended Complaint was filed in the San Francisco action  
 10 alleging fraud among other facts. By this time a judgment had been obtained against Wescott by  
 11 the Nevada firm and on September 6, 2011, the Kornblum firm and I obtained entry of a  
 12 California judgment on the Nevada sister state judgment in SF Action No. CPF-11-511547. A true  
 13 copy of the sister state judgment entered in California is attached hereto as **Exhibit 1**.

14 4. Once Wescott's multiple fraudulent bankruptcy filings had been dismissed with  
 15 prejudice, it is my best recollection that the Kornblum office withdrew as counsel in both the  
 16 original San Francisco action and the Sister State action sometime around 2013, and from that  
 17 point on I solely represented Mr. Fiechter in the prosecution of the original San Francisco action  
 18 and in efforts to enforce the Nevada sister state judgment in California.

19 5. In June of 2013, Wescott's counsel in the original SF Action withdrew as his  
 20 counsel and gave Wescott's contact information as "Carl Wescott-San Pedro Sula, Honduras and  
 21 [c@carlwescott.com](mailto:c@carlwescott.com)." A true copy of the Order Granting that withdrawal entered on June 18, 2013  
 22 in the San Francisco action is attached hereto as **Exhibit 2** (and is also Exhibit G to the Graft  
 23 Declaration filed herein on 11/16/22). That Order also specified that the next hearing in the case  
 24 was set in September 2013. The September hearing was continued by court order to late  
 25 November 2013, and notice was sent by the Court to Wescott at both the provided address in  
 26 Honduras and to his former attorney, but not to Wescott's email address. (Please see Exh. H to  
 27 Graft Decl.) The Court repeatedly continued the case management conference through February  
 28 2015, until it set the case for trial on June 29, 2015. (Please see Exhs. I and J to Graft Decl.)

1           6.       In March 2015, I filed a request for entry of default, which was mailed to San  
2 Pedro Sula, Honduras, and to a San Francisco, California P.O. Box (Please see Exhs. I and J to  
3 Graft Decl.). The San Francisco P.O. Box information had been obtained by me in my research  
4 into other cases in which Wescott was a party, including his marriage dissolution, for the specific  
5 purpose of getting notice to him and negating any false accusation he would ultimately make that  
6 he had not been properly served. The clerk entered the default on March 20, 2015, and a default  
7 “prove up” hearing was scheduled. (Please see Exh. J to Graft Decl.).

8           7.       Wescott did not appear for the “prove up” hearing and, after its finding of facts to  
9 support the judgment, the Court entered a Fraud Judgment of approximately \$1.5 million against  
10 Wescott, a true copy of which is attached hereto as **Exhibit 3** (and is also Exh. K to Graft Decl.).  
11 The Notice of Entry of Judgment was served on Wescott at the Honduras address, a San Francisco  
12 P.O. Box, and via an email address supplied by Wescott on contemporaneously filed federal court  
13 records which I found in an effort to make sure he was served. (Exh. K to Graft Decl.) Wescott  
14 clearly was aware of the entry of the judgment, as he filed a motion to vacate the judgment  
15 pursuant to Code of Civil Procedure § 473, on November 12, 2019, which was denied in a minute  
16 order entered December 3, 2019. (Please see Exhs. I, L and M to Graft Decl.).

17           8.       Upon entry of both Judgments, I commenced discovery in aid of collection and  
18 other collection efforts, including sending subpoenas and levies to PayPal and banks we thought  
19 Wescott may bank with. In my representation of Mr. Fiechter, I attempted to locate and identify  
20 the assets of Mr. Wescott from which we could collect on the judgments against Wescott.

21           9.       Based information and documents I obtained in discovery in aid of judgment, I  
22 concluded that the information being provided to me informally by Mr. Wescott about his lack of  
23 assets was false, and that the information Mr. Wescott provided in various In Forma Pauperis  
24 applications filed in the California Superior Court and in other courts was perjured. As a result of  
25 this information and the documents I obtained in third party discovery, I filed a Motion for  
26 Assignment and Charging Orders in the California court to levy against Wescott in furtherance of  
27 collecting the judgments. In support of that motion, I filed a Declaration in support of that Motion  
28 in Case No. CGC-10-496091, a true and correct copy of which is attached as **Exhibit 4**.

1 Paragraphs 4 through 14 of that Declaration, and the Exhibits cited therein and attached thereto  
 2 show the income we found Wescott to be hiding via PayPal transfers, and the facts upon which I  
 3 concluded that Wescott was filing perjured in forma pauperis applications with many courts. This  
 4 Court should make an independent in-depth inquiry into exactly what Wescott's real finances are,  
 5 and whether or not his in forma pauperis applications in this court were, in fact, perjured.

6 10. Wescott has been declared a vexatious litigant by the San Francisco Superior Court  
 7 pursuant to the Section 391 of the California Code of Civil Procedure for abuse of process and  
 8 harassing litigation. Attached to the Weaver Declaration filed in this action on 11/16/22 as  
 9 Exhibit A is a copy of a current vexatious litigant list maintained by the office of the judicial  
 10 council, which he retrieved at that time. I have been aware of this list for years and Weaver's  
 11 exhibit is accurate.

12 11. Wescott has filed no less than twenty-five cases in federal and state courts  
 13 throughout the country since January 2021. Attached to the Weaver Declaration filed in this  
 14 action on 11/16/22 as Exhibit B is a true and correct copy of a list of actions filed by Wescott,  
 15 which Weaver obtained using PACER. I have also been monitoring these multiple actions on  
 16 PACER for year and know the list attached to Weaver's Declaration to be accurate.

17 12. I have never advised Mr. Fiechter to include a "false" allegation in a complaint  
 18 against Wescott. As alleged in the complaint for Fraud and Breach of Contract I helped prepare  
 19 and file in the San Francisco Superior Court action, and upon which a judgment of Fraud was  
 20 entered, my investigation of the transactions between Wescott and Mr. Fiechter revealed that  
 21 Wescott had acted fraudulently and the Court found that to be true in the Judgment it entered.

22 I declare under penalty of perjury under the laws of the United States of America that the  
 23 foregoing is true and correct and that this declaration was executed on this 18th day of January,  
 24 2023, at Corte Madera, California.

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26 David M. Zeff, Esq.  
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